IN THE UNITED STATES DISTRICT COURT FOR THE

EASTERN DISTRICT OF VIRGINIA

Alexandria Division

MAR 7 2016

UNITED STATES OF AMERICA	)	
	)	
v.	)	Criminal No.: 1:16-MJ-105
	)	
MOHAN NIRALA	)	
	)	
	)	
	)	
	)	
Defendant.	)	

Affidavit in Support of a Criminal Complaint

I, Kevin McDonald, being duly sworn, do hereby depose and state:

Introduction:

1. Your affiant is a Special Agent for the Department of Justice, Federal Bureau of Investigation (DOJ/FBI). I have been a Special Agent since 2006 and have been assigned to the Baltimore Field office of the FBI since December 2011.

2. This affidavit is made in support of a criminal complaint against **Mohan Nirala** of Laurel, Maryland, for unauthorized retention of defense information, in violation of 18 U.S.C. § 793(e), and for making a false statement, in violation of 18 U.S.C. § 1001.

Details of the Investigation:

3. During the relevant periods identified in this affidavit, Nirala was employed at National Geospatial-Intelligence Agency (NGA) located in Springfield, Virginia, within the Eastern District of Virginia.

4. On September 11, 2013, at 3:55 pm, Mohan Nirala sent an email from Nirala's unclassified government e-mail account, Mohan.L.Nirala@nga.mil, to an external unclassified

e-mail account utilized by an identified individual who maintains legal permanent residency in the United States and is a citizen of the People's Republic of China that contained classified information. The recipient of this email does not now possess and has never possessed a United States government security clearance. The National Geospatial-Intelligence Agency (NGA) Original Classification Authority (OCA) examined the content of the e-mail and determined that the information was national defense information classified at the SECRET/NO FOREIGN level.

5. On September 19, 2013, at 1:00 pm, Mohan Nirala sent an email from Nirala's unclassified government e-mail account, Mohan.L.Nirala@nga.mil, to an external unclassified e-mail account utilized by an identified individual who maintains legal permanent residency in the United States and is a citizen of the People's Republic of China that contained classified information. The recipient does not now possess and has never possessed a United States government security clearance. The NGA OCA examined the content of this second e-mail and determined that the information was national defense information classified at the SECRET/NO FOREIGN level.

6. On the morning of January 10, 2014, FBI agents executed a federal search warrant at Nirala's residence in Laurel, Maryland. Nirala was also interviewed at his residence during the search warrant's execution. During the consensual interview, Nirala discussed the content of an e-mail sent from his unclassified government e-mail account, Mohan.L.Nirala@nga.mil, on June 14, 2013 at 8:11 am, to an external unclassified e-mail account. Nirala stated that the technical data contained in the e-mail "are from his head" and "there is no reason the numbers would be on a Secret or Top Secret system." On March 1, 2013, at 12:24 pm, Nirala received an email on his classified government e-mail account with an attached Microsoft Excel spreadsheet containing the exact technical data contained in Nirala's e-mail transmitted using the unclassified email system.

The NGA OCA examined the content of the e-mail and determined that the information was national defense information classified at SECRET/NO FOREIGN level.

7. On January 10, 2014, FBI agents seized twenty (20) classified documents, five (5) of which contained classification markings from Nirala's residence. An NGA OCA review determined the documents contain national defense information classified at the SECRET and TOP SECRET levels, one of which was an e-mail authored by Nirala. One document, provisionally classified pending final classification review, bore evidence of an attempted obliteration by hand of the classification markings. I describe it as an attempted obliteration because simply holding the document to the light revealed the information under the attempted redaction. NGA OCA determined this document did in fact contain classified information. The documents were dated from November 8, 2011 through July 18, 2013, and had been removed from Nirala's place of work in the Eastern District of Virginia. Nirala's residence is not an authorized location for the storage of classified documents.

8. When interviewed by FBI agents at the beginning of the search of his residence, Nirala stated that there were no work materials or classified documents in his residence. He further stated that he does not bring work material home. After classified work materials were recovered inside his residence, Nirala apologized for having these classified documents in his residence. When Nirala was subsequently interviewed in his attorney's office with counsel present on February 12, 2014, Nirala admitted that he wrote the e-mails seized from his residence that contain classified information. Nirala further admitted that he had received NGA training on the proper handling of classified material.

9. Nirala's NGA training reflects that he completed the following courses:

-NGA Annual Security Refresher (completed annually 2009-2013);

-Classification and Security Training (completed January 8, 2013);

-OPSEC Training (completed annually 2009-2013);

-Counterintelligence Training (completed annually 2009-2013);

-Information Assurance Training (completed annually 2009-2013).

Nirala signed a written nondisclosure agreement on March 2, 2009, which explicitly cautioned that the unauthorized retention of classified information was punishable by Section 793 and the mishandling of classified information was punishable pursuant to Section 1924.

10. The classified material transmitted and retained by Nirala contains sensitive intelligence sources and methods involving the exploitation and analysis of imagery and geospatial (e.g. mapping, charting, and geodesy) information used to describe, assess, and visually depict physical features and geographically referenced activities on Earth. Based on information provided by NGA, the material is properly classified up to the TOP SECRET level, as it protects techniques and capabilities that are valuable from both an intelligence and national defense perspective. Nirala was not authorized to remove the classified material nor was he authorized to transmit it over an unclassified e-mail system. Nirala was not authorized to store this classified information either in his unclassified e-mail account or at his personal residence.

Conclusion:

11. Based on the facts set forth above, your affiant believes there is probable cause for a criminal complaint against **Mohan Nirala** for the unauthorized retention of defense information,

in violation of 18 U.S.C. § 793(e), and for making false statements, in violation 18 U.S.C. § 1001.

Kevin Mcdonald
Special Agent
Department of Justice
Federal Bureau of Investigation

Subscribed and sworn before me this 7th day of March 2016.

/s/
Theresa Carroll Buchanan
United States Magistrate Judge

The Honorable Theresa C. Buchanan
United States Magistrate